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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR			
10/084,237	02/26/2002	THOST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
		Frederick L. Jordan	HO-P02917EPO	2035	
26271	7590 11/04/2064		EXAMINER		
FULBRIGH 1301 MCKIN	IT & JAWORSKI, LLP INEY		TOOMER, CEPHIA D		
SUITE 5100	TX 77010-3095		ART UNIT	PAPER NUMBER	
110001014,	1A 77010-3093		1714		
			DATE MAILED: 11/04/2004	ı	

Please find below and/or attached an Office communication concerning this application or proceeding.

	A				
	Application No.	Applicant(s)			
Office Action Summary	10/084,237	JORDAN, FREDERICK L.			
- The state of the	Examiner	Art Unit			
The MAII ING DATE of this communication or	Cephia D. Toomer	1714			
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet wi	ith the correspondence address			
A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a repl - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may a reply within the statutory minimum of thirt will apply and will expire SIX (6) MON	reply be timely filed by (30) days will be considered timely. THS from the mailing date of this communication.			
Status					
1) Responsive to communication(s) filed on 11 A	ugust 2004.				
2a) This action is <b>FINAL</b> . 2b) ⊠ This	s action is non-final.				
3) Since this application is in condition for allowar	nce except for formal matte	ers, prosecution as to the merits is			
closed in accordance with the practice under E	<i>≣x parte Quayle</i> , 1935 C.D.	. 11, 453 O.G. 213.			
Disposition of Claims					
4)⊠ Claim(s) <u>28-53,55-63 and 65-80</u> is/are pending	a in the application				
4a) Of the above claim(s) is/are withdraw	) in the application.				
5) Claim(s) <u>46-53,55-63 and 65-80</u> is/are allowed	m from consideration.				
6)⊠ Claim(s) <u>28-31,36-39,42 and 43</u> is/are rejected.					
7) Claim(s) <u>32-35,40,41,44 and 45</u> is/are objected to.					
8) Claim(s) are subject to restriction and/or					
Application Papers	·				
9)☐ The specification is objected to by the Examiner	-				
10) The drawing(s) filed on is/are: a) acce	ented or h) objected to be	and a Parising of the Control of the			
Applicant may not request that any objection to the d	trawing(s) he held in abeyone	y the Examiner.			
Replacement drawing sheet(s) including the correction	on is required if the drawing(s	6. 566 37 CFR 1.65(a).			
11) The oath or declaration is objected to by the Exa	aminer. Note the attached	Office Action or form PTO-152			
Priority under 35 U.S.C. § 119	•	5.105 / 15.101   10-10Z.			
12) ☐ Acknowledgment is made of a claim for foreign p a) ☐ All b) ☐ Some * c) ☐ None of:	oriority under 35 U.S.C. § 1	19(a)-(d) or (f).			
1. Certified copies of the priority documents	have been received.				
2. Certified copies of the priority documents	have been received in App	plication No.			
3. Copies of the certified copies of the priorit	ty documents have been re	eceived in this National Stage			
application from the International Bureau	(PCT Rule 17.2(a)).				
* See the attached detailed Office action for a list of	f the certified copies not re-	ceived.			
•••					
Attachment(s)	_				
) Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  A Draftsperson's Patent Drawing Review (PTO-948)  A Draftsperson's Patent Drawing Review (PTO-948)  A Draftsperson's Patent Drawing Review (PTO-948)					
B) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	5) L Notice of Infor	mal Patent Application (PTO-152)			
Palent and Trademork Office	6)  Other:				

1) 2) Art Unit: 1714

## **DETAILED ACTION**

- 1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 11, 2004 has been entered.
- 2. This Office action is in response to the amendment filed August 11, 2004 in which claims 35, 41, 52, 55, 62, 69, 73 and 79 were amended and claims 54, 64 and 81 were canceled.
- 3. The rejection of the claims under 35 USC 112, first and second paragraphs are withdrawn in view of the amendment to the claims and Applicant's arguments.

## Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 28-31,36-39 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk (US 5,023,095).

Kirk teaches a composition comprising beta-carotene, at least one edible oil and dl-alpha-tocopherol (see abstract; col. 2, lines 17-24). The edible oil may be selected from coconut, palm, olive, peanut (a member of the *Leguminosae* family), and corn

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(grain). Kirk teaches that the oils may be used in combination (see col. 3, lines 22-28). Kirk also teaches that dl-alpha-tocopherol is an antioxidant (see col. 3, lines 47-50). Kirk teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, Kirk differs from the claims in that she does not specifically teach applicant's intended use. However, intended use is given no patentable weight in claims that are directed to the composition per se.

In the second aspect, Kirk differs from the claims in that she does not teach that the edible oils function as thermal stabilizers. However, given that Kirk teaches some of the same oils as applicant in combination with beta-carotene, it would be reasonable to expect that the oils would function in this capacity. Furthermore, a compound and its properties are inseparable. In re Papesch, 137 USPQ 43 (CCPA 1963).

- 6. Claims 32-35, 40, 41 and 44-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- 7. Claims 46-53, 55-63 and 65-80 are allowed. The prior art fails to teach or suggest the claimed fuel additive and the fuel composition containing said additive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cephia D. Toomer Primary Examiner Art Unit 1714

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